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**SUBSTITUTE SENATE BILL 5751**

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**State of Washington**

**58th Legislature**

**2003 Regular Session**

**By** Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senator Hargrove)

READ FIRST TIME 03/03/03.

1       AN ACT Relating to sales of valuable materials; amending RCW  
2       79.01.184, 79.01.200, and 79.01.188; and reenacting and amending RCW  
3       79.01.132.

4       BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5       **Sec. 1.** RCW 79.01.132 and 2001 c 250 s 4 and 2001 c 187 s 1 are  
6       each reenacted and amended to read as follows:

7       (1) When valuable materials on state lands are sold separate from  
8       the land, they may be sold as a lump sum sale or as a scale sale. Lump  
9       sum sales under five thousand dollars appraised value shall be paid for  
10      in cash on the day of sale. The initial deposit shall be maintained  
11      until all contract obligations of the purchaser are satisfied.  
12      However, all or a portion of the initial deposit may be applied as the  
13      final payment for the valuable materials in the event the department of  
14      natural resources determines that adequate security exists for the  
15      performance or fulfillment of any remaining obligations of the  
16      purchaser under the sale contract.

17      (2) The initial deposits required in RCW 79.01.204 may not exceed  
18      twenty-five percent of the actual or projected purchase price, but in  
19      the case of lump sum sales appraised at over five thousand dollars the

1 initial deposit may not be less than five thousand dollars, and shall  
2 be made on the day of the sale. For those sales appraised below the  
3 amount specified in RCW 79.01.200, the department of natural resources  
4 may require full cash payment on the day of sale.

5 (3) The purchaser shall notify the department of natural resources  
6 before any operation takes place on the sale site. Upon notification,  
7 the department of natural resources shall determine and require advance  
8 payment for the cutting, removal, or processing of the valuable  
9 materials, or may allow purchasers to guarantee payment by submitting  
10 as adequate security bank letters of credit, payment bonds, assignments  
11 of savings accounts, assignments of certificates of deposit, or other  
12 methods acceptable to the department as adequate security. The amount  
13 of such advance payments and/or security shall be determined by the  
14 department and at all times equal or exceed the value of timber cut and  
15 other valuable materials processed or removed until paid for.

16 (4) In all cases where valuable materials are sold separate from  
17 the land, the same shall revert to the state if not removed from the  
18 land within the period specified in the sale contract. The specified  
19 period shall not exceed five years from the date of the purchase  
20 thereof: PROVIDED, That the specified periods in the sale contract for  
21 stone, sand, fill material, or building stone shall not exceed thirty  
22 years.

23 (5) In all cases where, in the judgment of the department of  
24 natural resources, the purchaser is acting in good faith and  
25 endeavoring to remove such materials, the department of natural  
26 resources may extend the time for the removal thereof for any period  
27 not exceeding forty years from the date of purchase for the stone,  
28 sand, fill material, or building stone or for a total of ten years  
29 beyond the normal termination date specified in the original sale  
30 contract for all other material. Extension of a contract is contingent  
31 upon payment to the state of a sum to be fixed by the department of  
32 natural resources, based on the estimated loss of income per acre to  
33 the state resulting from the granting of the extension. In no event  
34 may the extension payment be less than fifty dollars per extension,  
35 plus interest on the unpaid portion of the contract. The interest rate  
36 shall be fixed, from time to time, by rule adopted by the board of  
37 natural resources and shall not be less than six percent per annum.  
38 The applicable rate of interest as fixed at the date of sale, the

1 maximum extension payment, and the method for calculating the unpaid  
2 portion of the contract upon which such interest shall be paid by the  
3 purchaser shall be set forth in the contract. The department of  
4 natural resources shall pay into the state treasury all sums received  
5 for such extension and the same shall be credited to the fund to which  
6 was credited the original purchase price of the material so sold.

7 (6) A direct sale of valuable materials may be sold to the  
8 applicant for cash at full appraised value without notice or  
9 advertising. The board of natural resources shall, by resolution,  
10 establish the value amount of a direct sale (~~((not to exceed twenty  
11 thousand dollars in appraised sale value,))~~) and establish procedures to  
12 assure that competitive market prices and accountability will be  
13 guaranteed.

14 (7) The department may, in addition to any other securities,  
15 require a performance security to guarantee compliance with all  
16 contract requirements. The security is limited to those types listed  
17 in subsection (3) of this section. The value of the performance  
18 security will, at all times, equal or exceed the value of work  
19 performed or to be performed by the purchaser.

20 (8) Any time that the department of natural resources sells timber  
21 by contract that includes a performance bond, the department shall  
22 require the purchaser to present proof of any and all property taxes  
23 paid prior to the release of the performance bond. Within thirty days  
24 of payment of taxes due by the timber purchaser, the county treasurer  
25 shall provide certified evidence of property taxes paid, clearly  
26 disclosing the sale contract number.

27 (9) The provisions of this section apply unless otherwise provided  
28 by statute. The board of natural resources shall establish procedures  
29 to protect against cedar theft and to ensure adequate notice is given  
30 for persons interested in purchasing cedar.

31 **Sec. 2.** RCW 79.01.184 and 2001 c 250 s 6 are each amended to read  
32 as follows:

33 When the department of natural resources shall have decided to sell  
34 any state lands or valuable materials thereon, or with the consent of  
35 the board of regents of the University of Washington, or by legislative  
36 directive, shall have decided to sell any lot, block, tract, or tracts

1 of university lands, or the valuable materials thereon, it shall be the  
2 duty of the department to fix the date, place, and time of sale, and no  
3 sale shall be had on any day which is a legal holiday.

4 The department shall give notice of the sale by advertisement  
5 published not less than two times during a four week period prior to  
6 the time of sale in at least one newspaper of general circulation in  
7 the county in which the whole, or any part of any lot, block, or tract  
8 of land to be sold(~~(, or the material upon which is to be sold)~~) is  
9 situated, and by posting a copy of the notice in a conspicuous place in  
10 the department's Olympia office, the region headquarters administering  
11 such sale, and in the office of the county auditor of such county. The  
12 notice shall specify the place, date, and time of sale, the appraised  
13 value thereof, and describe with particularity each parcel of land to  
14 be sold(~~(, or from which valuable materials are to be sold)~~). In the  
15 case of valuable materials sales, the advertisement may be by newspaper  
16 or as provided in RCW 79.01.188, provided that the estimated volume  
17 will be identified and the terms of sale will be available in the  
18 region headquarters and the department's Olympia office.

19 The advertisement is for informational purposes only, and under no  
20 circumstances does the information in the notice of sale constitute a  
21 warranty that the purchaser will receive the stated values, volumes, or  
22 acreage. All purchasers are expected to make their own measurements,  
23 evaluations, and appraisals.

24 A direct sale of valuable materials may be sold to the applicant  
25 for cash at full appraised value without notice or advertising. The  
26 board of natural resources shall, by resolution, establish the value  
27 amount of a direct sale (~~(not to exceed twenty thousand dollars in~~  
28 ~~appraised sale value,~~) and establish procedures to ensure that  
29 competitive market prices and accountability will be guaranteed.

30 **Sec. 3.** RCW 79.01.200 and 1989 c 148 s 3 are each amended to read  
31 as follows:

32 All sales of land shall be at public auction, and all sales of  
33 valuable materials shall be at public auction or by sealed bid to the  
34 highest bidder, on the terms prescribed by law and as specified in the  
35 notice provided, and no land or materials shall be sold for less than  
36 its appraised value: PROVIDED, That on public lands granted to the  
37 state for educational purposes sealed bids may be accepted for sales of

1 timber or stone only: PROVIDED FURTHER, That when valuable material  
2 has been appraised at an amount not exceeding (~~one~~) two hundred fifty  
3 thousand dollars, the department of natural resources, when authorized  
4 by the board of natural resources, may arrange for the sale at public  
5 auction of said valuable material and for its removal under such terms  
6 and conditions as the department may prescribe, after the department  
7 shall have caused to be published not less than ten days prior to sale  
8 a notice of such sale in a newspaper of general circulation located  
9 nearest to property to be sold. In addition, the commissioner of  
10 public lands may seek additional means of publishing the information,  
11 such as on the internet, to increase the number of prospective buyers.  
12 This section does not apply to direct sales authorized in RCW  
13 79.01.184.

14 **Sec. 4.** RCW 79.01.188 and 2001 c 250 s 7 are each amended to read  
15 as follows:

16 (1) The commissioner of public lands shall cause to be printed a  
17 list of all public lands, or valuable materials thereon, and the  
18 appraised value thereof, that are to be sold. This list should be  
19 published in a pamphlet form to be issued at least four weeks prior to  
20 the date of any sale of the lands or valuable materials thereon. The  
21 list should be organized by county and by alphabetical order, and  
22 provide sale information to prospective buyers. The commissioner of  
23 public lands shall retain for free distribution in his or her office  
24 and the region offices sufficient copies of the pamphlet, to be kept in  
25 a conspicuous place, and, when requested so to do, shall mail copies of  
26 the pamphlet as issued to any requesting applicant. The commissioner  
27 of public lands may seek additional means of publishing the information  
28 in the pamphlet, such as on the internet, to increase the number of  
29 prospective buyers.

30 (2) The sale of valuable materials appraised at an amount not  
31 exceeding two hundred fifty thousand dollars, as described in RCW  
32 79.01.200 and as authorized by the board of natural resources, are  
33 exempt from the requirements of subsection (1) of this section.

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